

OPINION 1961

Coluber infernalis Blainville, 1835 and *Eutaenia sirtalis tetrataenia* Cope in Yarrow, 1875 (currently *Thamnophis sirtalis infernalis* and *T. s. tetrataenia*; Reptilia, Serpentes): subspecific names conserved by the designation of a neotype for *T. s. infernalis*

Keywords. Nomenclature; taxonomy; Reptilia; Serpentes; COLUBRIDAE; *Thamnophis sirtalis infernalis*; *Thamnophis sirtalis tetrataenia*; California red-sided garter snake; San Francisco garter snake; California.

Ruling

- (1) Under the plenary power all previous fixations of type specimens for the nominal species *Coluber infernalis* Blainville, 1835 are hereby set aside and the male specimen catalog no. 39197 in the California Academy of Sciences, San Francisco, is designated as the neotype.
- (2) The following names are hereby placed on the Official List of Specific Names in Zoology:
 - (a) *infernalis* Blainville, 1835, as published in the binomen *Coluber infernalis* and as defined by the neotype designated in (1) above;
 - (b) *tetrataenia* Cope in Yarrow, 1875, as published in the trinomen *Eutaenia sirtalis tetrataenia* and as defined by the lectotype USNM 21384 in the United States National Museum, Washington, D.C., designated by Fitch (1941).

History of Case 3012

An application for the conservation of the subspecific name of *Thamnophis sirtalis infernalis* (Blainville, 1835) for the California red-sided garter snake from the Californian coast, and of *T. s. tetrataenia* (Cope in Yarrow, 1875) for the San Francisco garter snake from the San Francisco Peninsula, by the designation of a neotype for *T. s. infernalis* was received from Dr Sean J. Barry (*University of California, Davis, California, U.S.A.*) and Dr Mark R. Jennings (*California Science Center, Piedras Blancas Research Station, San Simeon, California, U.S.A.*) on 16 January 1996. After correspondence the case was published in BZN 55: 224–228 (December 1998). Notice of the case was sent to appropriate journals.

A comment in support of the application from Prof Hobart M. Smith (*University of Colorado, Boulder, Colorado, U.S.A.*) was published in BZN 56: 71–72 (March 1999).

A comment from Ms Kathy Merk (*Department of Entomology, University of California at Davis, Davis, California, U.S.A.*), received during the voting period, noted: 'I believe that Drs Barry and Jennings are more than justified in seeking a remedy for the unfortunate situation they describe (the proposed transfer of the subspecific name *Thamnophis sirtalis infernalis* to the San Francisco Peninsula garter snake, hitherto called *T. s. tetrataenia*, which is protected as an endangered subspecies). Earlier this year I prepared a review of the taxonomic context of, and possible impacts of taxonomic usage on, the United States Endangered Species Act of 1973 and other conservation law in the U.S.A. The framers of the U.S. laws did

not envisage the possibility that a name could be transferred legitimately from one biological entity to another and therefore made no provision for such an event. Legal protection is conferred on the taxon by the act of 'listing', and protection thereafter goes with the name, unless geographic populations are identified. It thus could occur that protection might be removed from the species or subspecies intended by the Secretary of the Interior, and possibly conferred on an entity not in need of such protection. It is not clear how this situation could be rectified. Since additional cases of this sort are likely to arise, this case affords an excellent opportunity for the Commission to underscore the role and responsibilities of the systematic community in the conservation of nature by approving Barry and Jennings's application'.

Decision of the Commission

On 1 December 1999 the members of the Commission were invited to vote on the proposals published in BZN 55: 227. At the close of the voting period on 1 March 2000 the votes were as follows:

Affirmative votes — 19: Bock, Brothers, Cocks, Cogger, Eschmeyer, Heppell, Kerzhner, Kraus, Macpherson, Mahnert, Martins de Souza, Minelli, Nielsen, Papp, Patterson, Ride, Savage, Schuster, Song

Negative votes — 2: Dupuis and Štys.

Bouchet abstained.

No vote was received from Mawatari.

Lehtinen was on leave of absence.

Bouchet commented: 'The application (para. 4) refers to the [IUCN] *Red List of Threatened Animals* as 'international legislation for the protection of [species]'. The *Red List* records the conservation status of species and subspecies under certain demographic and distributional criteria. It is not a legislative text'.

Original references

The following are the original references to the names placed on an Official List by the ruling given in the present Opinion:

infernalis, *Coluber*, Blainville, 1835, *Nouvelles Annales du Muséum d'Histoire Naturelle*, Paris, (3)4: 291.

tetraetania, *Eutaenia sirtalis*, Cope in Yarrow, 1875, *Report upon geographical and geological explorations and surveys west of the one hundredth meridian*, vol. 5 (Zoology), part 4, p. 546.

The following is the reference for the designation of the lectotype of *Eutaenia sirtalis tetraetania* Cope in Yarrow, 1875:

Fitch, H.S. 1941. *American Midland Naturalist*, 26(3): 581, 585.